

CERTIFIED FOR PUBLICATION

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

RALPHS GROCERY COMPANY,

Plaintiff and Appellant,

v.

KELVIN MASSIE et al.,

Defendants and Respondents.

D042249

(Super. Ct. No. GIC805279)

ORDER MODIFYING OPINION
AND DENYING REHEARING

THE COURT:

It is ordered that the opinion filed herein on March 11, 2004, be modified as follows:

1. On page 13, second sentence of footnote 7, at the end of the sentence the words "Labor Commissioner" are changed to "contracting parties" so the sentence reads:

Unlike the Labor Commissioner's administrative proceedings involving an investigation, a determination whether an employer has violated labor law, a potential remedial order and potentially ensuing judicial litigation, the administrative procedures under FEHA simply consist of an investigation, a probable cause finding, conciliation and potential accusatory proceedings seeking fines or other remedies not available to the contracting parties.

2. On page 15, the second full paragraph, the sentence "Ralphs shall have costs on appeal" is changed to "The parties shall bear their own costs on appeal."

This modification changes the judgment.

Appellant's and Respondent Kelvin Massie's petitions for rehearing are denied.

HUFFMAN, Acting P. J.

Copies to: All parties